

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PRINCE PILGRIM,

Plaintiff,

**9:07-cv-1001
(GLS/GHL)**

v.

DALE ARTUS, Superintendent, Clinton
Correctional Facility,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Prince Pilgrim
Pro Se
92-A-8847
Attica Correctional Facility
Box 149
Attica, NY 14011

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
New York State Attorney General
The Capitol
Albany, NY 12224

AARON M. BALDWIN
DAVID L. COCHRAN
Assistant Attorneys General

**Gary L. Sharpe
District Court Judge**

MEMORANDUM-DECISION AND ORDER

Pro se plaintiff Prince Pilgrim brings this action under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act (RLUIPA),¹ alleging that while he was an inmate at Clinton Correctional Facility, defendant Dale Artus, Superintendent of Clinton Correctional Facility, violated his constitutional and statutory rights, including the right to freely exercise his religious beliefs. (See Compl., Dkt. No. 1.)

On April 30, 2009, Artus moved for summary judgment. (Dkt. No. 36.) In a Report- Recommendation and Order (R&R) filed March 17, 2010, Magistrate Judge Randolph F. Treece recommended that all Pilgrim's claims except his religious expression claims be dismissed, that Artus be dismissed from the action, and that the New York State Department of Correctional Services (DOCS) and DOCS Commissioner Brian Fischer be substituted sua sponte as proper defendants.² (R&R at 18-27, Dkt. No. 50.) Pending are Artus and Pilgrim's objections to the R&R. (Dkt. Nos. 55, 56.) For the reasons that follow, the R&R is adopted in its entirety.

¹42 U.S.C. § 2000cc-1, *et seq.*

²The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

Before entering final judgment, this court routinely reviews all report and recommendation orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations de novo. *See Almonte v. N.Y. State Div. of Parole*, No. 04-cv-484, 2006 WL 149049, at *6-7 (N.D.N.Y. Jan. 18, 2006). In those cases where no party has filed an objection, or only a vague or general objection has been filed, this court reviews the findings and recommendations of a magistrate judge for clear error. *See id.*

Here, both parties have filed specific objections to certain of Judge Treece's findings and conclusions. Having reviewed those findings and conclusions de novo and the remainder of the R&R for clear error, the court finds no error, concurs with Judge Treece, and adopts the R&R in its entirety. As to the substitution of parties specifically, the court recognizes the difficulties that the addition of new defendants at this late stage may cause. However, having carefully reviewed Judge Treece's findings, and in line with the reasoning and authority set forth in the R&R, the court does not agree with defendant that permitting the substitution would be an abuse of discretion. *See* FED. R. CIV. P. 21 ("On motion or on its own, the court

may at any time, on just terms, add or drop a party.”).

WHEREFORE, for the foregoing reasons, it is hereby

ORDERED that Magistrate Judge Randolph F. Treece’s Report-Recommendation and Order (Dkt. No. 50) is **ADOPTED** in its entirety; and it is further

ORDERED that Dale Artus is **DISMISSED** from this action; and it is further

ORDERED that the New York State Department of Correctional Services (DOCS) and DOCS Commissioner Brian Fischer be substituted as defendants; and it is further

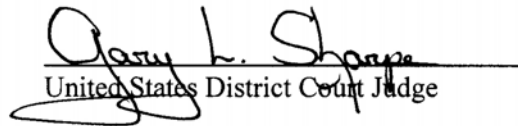
ORDERED that the Clerk comply with Judge Treece’s directives as to updating the docket, issuing and forwarding summonses with copies of the complaint, and scheduling a status conference between the new defendants and Judge Treece; and it is further

ORDERED that, pursuant to the R&R, DOCS and Brian Fischer are to file a response to Pilgrim’s complaint as provided in the Federal Rules of Civil Procedure after they have been served with process; and it is further

ORDERED that the Clerk provide copies of this Memorandum-Decision and Order to the parties.

IT IS SO ORDERED.

September 17, 2010
Albany, New York


United States District Court Judge